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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,570

08/26/2003

Rafael J. Cobo

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7590

08/01/2006

Larry G. Brown
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EXAMINER

MACARTHUR, VICTOR L

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/649,570	COBO ET AL.	
	Examiner	Art Unit	
	Victor MacArthur	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

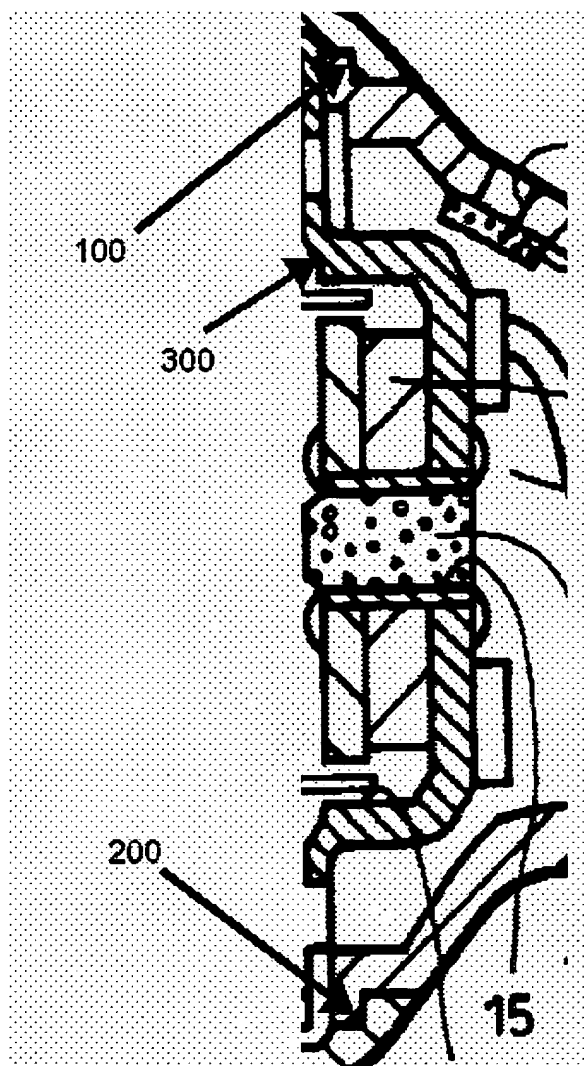
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Inui (U.S. Patent 5,167,465).

Claim 12. Inui discloses a plate (2), comprising: a first surface area (planar end surface of 2); a second surface area (outer cylindrical surface of 3) on which a decorative image (image of element 156 as seen in fig.20) is positioned; a first projection (7); and a second projection (8), said first and second projections being disposed on said first surface area; wherein said first and second projections are adapted to detachably engage a first slot (11) and a second slot (14) of a base (1), wherein said plate couples to the base when said first and second projections engage the first and second slots and said plate decouples from the base when said first and second projections disengage the first and second slots of the base.

Claim 13. Inui discloses the plate according to claim 12, wherein said first and second projections of said plate disengage the first and second slots of the base when said plate is turned to a first position and wherein said first and second projections engage the first and second slots when said plate is turned to a second position.



Claims 14 and 15. Nageno discloses (see marked-up fig.3 above) a base of an audio comprising: a first element (3) having a first slot (100) and a second slot (200); and a second element (300) having a speaker (10) and a neck (15) attached to the speaker therein said first element is attached to said second element, wherein said speaker and at least a portion of said neck are configured to fit within a human ear. Note that if the scope of claims 14 and 15 do not positively recite a plate with projections but rather only requires that the first and second slot “are adapted to detachably engage first and second end projections of a plate” (line 6). If the applicant intends for the scope of the claim to be positively limited by a “plate” rather than

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merely “adapted to detachably engage first and second projections of a plate”; then “a plate” must be positively set forth in the claim (i.e., by deleting the language “are adapted to” from line 6. Note that the Nageno slots are inherently adapted to engage a plate as described in claims 14 and 15 since the Nageno slots inherently contain space therein for such engagement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10, 11, 14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Nageno (U.S. Patent 5,949,896) in view of Oliveira (U.S. Patent 5,002,151) and Inui (U.S. Patent 5,167,465).

Claim 1. Nageno discloses (fig.3) earphones having a plate (4) coupled to a base (3, 11) wherein the base includes a speaker (11) and a neck (3) and said speaker being attached to said neck, wherein said speaker and at least a portion of said neck are configured to fit within a human ear. It appears that the Nageno plate and base must be detachably coupled to facilitate installation of the speaker, however Nageno does not expressly state that the base to plate connection is a bayonet connection. Oliveira teaches that it is common practice in the art to construct an earphone (col.2, ll.29-31) connection as a bayonet connection (col.4, ll.37-39) for the benefit of allowing for ease of attachment and detachment, but does not expressly detail the structure of a bayonet connection. Inui teaches (fig.1) that a bayonet connection should be

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constructed as a locking system, comprising: a plate (2) having a first projection (7) and a second projection (8), wherein at least a portion (central portion of 7) of said first projection runs at least substantially along a vertical axis of said plate, said plate also including a surface area (3) for receiving a decorative image; and a base (1) having a first slot (11) and a second slot (14, 15), wherein said first slot and said second slot run at least substantially along horizontal axes (axis connecting 11 and 14) of said base; wherein said first slot detachably receives said first projection when said plate is in a first position (open position) and said second slot detachably receives said second projection as said plate is turned to a second position (closed position), wherein said first slot locks said first projection and said second slot locks said second projection when said plate is in said second position such that said plate is detachably coupled to said base. Inui further teaches that such bayonet connections are usable between “various types of manipulated components” (col.9, ll.21-22). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to construct the Nageno earphone plate and base connection as a bayonet connection similar in structure to that taught by Inui, since such practice is commonly known to be desirable and beneficial for allowing ease of attachment and detachment, as is taught by Oliveira.

Claim 2. Inui requires that the system according to claim 1 further include that said second slot unlocks said second projection as said plate is turned from said second position to said first position.

Claim 3. Inui requires that the system according to claim 2 further include that said first slot unlocks said first projection when said plate is in said first position such that said plate is removable from said base.

Claim 4. Inui requires that the system according to claim 4 further include that said first projection has a center portion (5) that is at least substantially circular and at least one wing (wings of 7) that is attached to and projects away from said center portion.

Claim 5. Inui requires that the system according to claim 4 further include that said first slot includes at least one arc (arc portion of 11) that engages said center portion of said first projection and at least one extension (portion of 11 receiving wings of 7) that receives said wings of said first projection.

Claim 6. Inui requires that the system according to claim 5 further include that said base comprises a first element (1) and a second element (4 as seen in fig.3), wherein said first element is affixed to said second element, wherein said first element has a top surface (top surface of 1) and a bottom surface (bottom surface of 1 engaging 7) and said bottom surface engages said wings as said plate is turned to and stops at said second position.

Claim 7. Inui requires that the system according to claim 1 further include that said second projection includes a neck (portion of 8 attached to plate) and a head (surface of 8 furthest from 3), wherein said neck is attached to said plate and said head is attached to said neck.

Claim 8. Inui requires that the system according to claim 7 further include that said second slot includes a pair of opposing projections (arcs projecting on either side of 14), each said projection having an arc, wherein said arcs snap lock said neck of said second projection when said plate is in said second position.

Claim 10. Inui requires that the system according to claim 2 further include that said plate further comprises a handle (large cylinder portion of 2), wherein a user grasps and turns said

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handle when the user wishes to turn said plate from said first position to said second position and from said second position to said first position.

Claim 11. Nageno discloses (fig.3) earphones having a plate (4) wherein said plate includes a surface area (surface of 4) on which a decorative image (image of an ellipse as seen in fig.9) is positioned; coupled to a base (3, 11) wherein the base includes a speaker (11) and a neck (3) and said speaker being attached to said neck, wherein said speaker and at least a portion of said neck are configured to fit within a human ear. It appears that the Nageno plate and base must be detachably coupled to facilitate installation of the speaker, however Nageno does not expressly state that the base to plate connection is a bayonet connection. Oliveira teaches that it is common practice in the art to construct earphone (col.2, ll.29-31) connections as bayonet connections (col.4, ll.37-39) for the benefit of allowing for ease of attachment and detachment, but does not expressly detail the structure of a bayonet connection. Inui teaches (fig.1) that a bayonet connection should be constructed as a locking system comprising: a plate (2) having a first projection (7) and a second projection (8); and a base (1) having a first slot (11) and a second slot (14), wherein said first slot and said second slot detachably lock said first projection and said second projection to permit said plate to detachably couple said base; wherein a user selectively detachably couples said plate to said base by turning said plate from a first position to a second position and from said second position to said first position. Inui further teaches that such bayonet joints are usable between "various types of manipulated components" (col.9, ll.21-22). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to construct the Nageno earphone plate and base connection as a bayonet connection similar in structure to that taught by Inui, since such practice it is commonly known

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to be desirable and beneficial for allowing ease of attachment and detachment, as is taught by Oliveira.

Claims 14 and 15. As noted in the 35 U.S.C. 102(b) rejection of claims 14 and 15 above, the scope of claims 14 and 15 does not positively require a plate. The applicant's specification allows for the claims to be amended as such without the addition of new matter; but the examiner notes that such claims would still not be allowable by the same reasoning set forth for claim 1 above.

Response to Arguments

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Referring to earphones and bayonet connections:

Vignini U.S. Patent 3,813,499

Dietheim U.S. Patent 3,852,540

Dittli U.S. Patent 6,625,290

Applicant's arguments with regard to the claim rejections have been fully considered but they are not persuasive.

The applicant argues that the newly added limitations are not present in the prior art. This is not persuasive. The prior art discloses or suggests all of the applicants claim limitations as is detailed in the newly revised rejections above.

Conclusion

Applicant's amendment (e.g., the newly added limitation "wherein said base also includes a speaker" in lines 6-7 of claim 1) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

VLM

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July 18, 2006



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